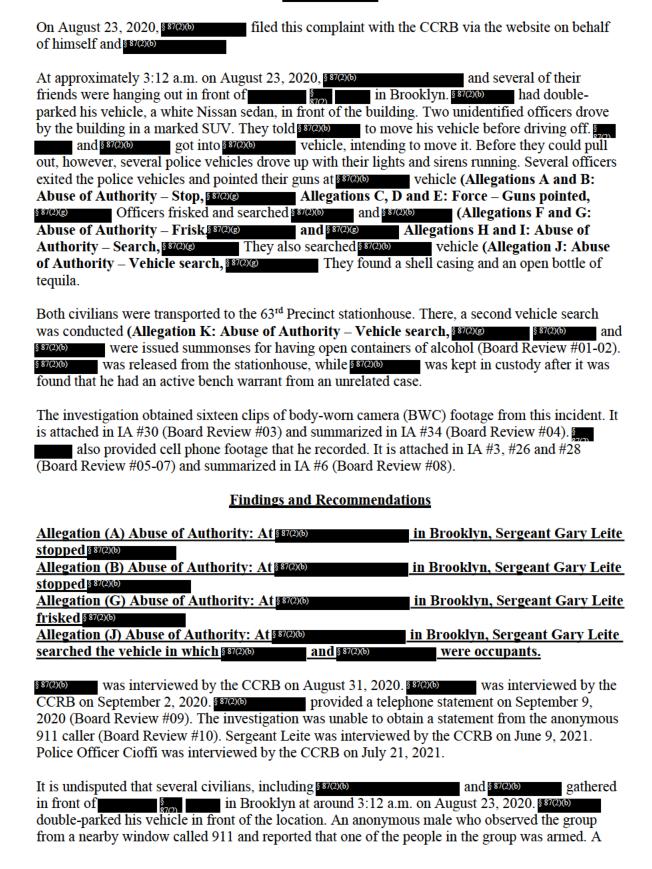
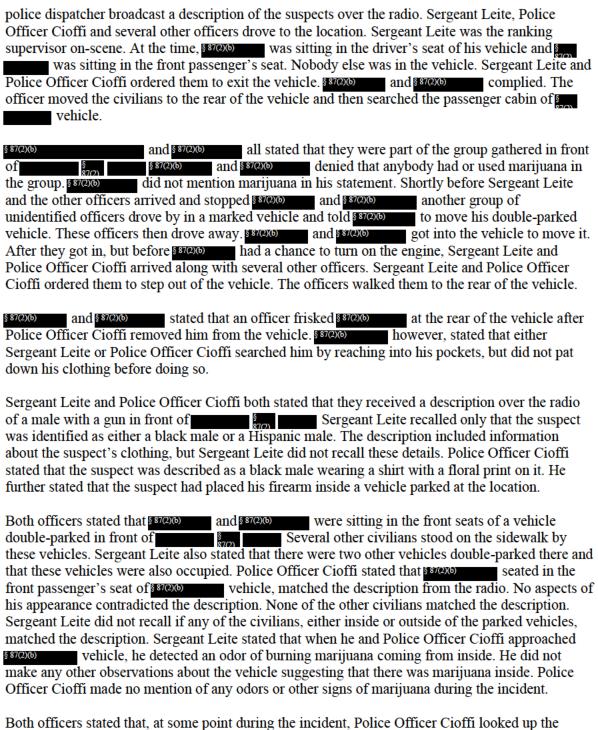
CCRB INVESTIGATIVE RECOMMENDATION

		T	T						
Investigator:		Team:	CCRB Case #:	☑	Force		Discourt.		U.S.
Owen Godshall		Squad #15	202005786	V	Abuse		O.L.		Injury
Incident Date(s)		Location of Incident:			18 M	lo. SO	OL	Pr	recinct:
Sunday, 08/23/2020 3:12 AM		§ 87(2)(b)			5/4	1/2022	2		63
Date/Time CV Reported		CV Reported At:	How CV Reported	:	Date/Time	e Reco	eived at CCI	RВ	
Sun, 08/23/2020 5:05 PM		CCRB	On-line website		Sun, 08/23	3/2020	0 5:05 PM		
Complainant/Victim	Type	Home Addre	ess						
Witness(es)		Home Addre	ess						
Saliant Officer(s)	Shield	TaxID	Command						
Subject Officer(s)	Shieid	TaxiD	Command						
Officers POM Michael Cioffi	24252	963217	063 PCT						
3. SGT Gary Leite	05022	948376	063 PCT						
-									
Witness Officer(s)	Shield N		Cmd Name						
1. POM Daniel Diaz	08295	960457	063 PCT						
2. POM John Brennan	12838	960275	063 PCT						
3. POM Peter Provenzano	02084	963703	063 PCT						
4. POM Christopher Schlitt	11229	952221	063 PCT						
5. POM Jonathan Andrews	13337	952413	063 PCT						
6. POM Peter Woodburn	04602 12582	947617	063 PCT						
7. POF Randi Knepper 8. POM Dean Perez	04494	967569 965826	063 PCT						
			063 PCT						
Officer(s)	Allegatio					estiga	ntor Recon	amen	ıdation
A . SGT Gary Leite	Abuse: A Gary Lei	at \$87(2)(6) te stopped \$87(2)(6)	in Brooklyn, Se	erge	ant				
B . SGT Gary Leite	Abuse: A Gary Lei	at ^{§ 87(2)(b)} te stopped ^{§ 87(2)(b)}	in Brooklyn, Se	erge	ant				
C . SGT Gary Leite	Force: At Gary Lei	t § 87(2)(b) te pointed his gun at § 87(in Brooklyn, Se	rgea	ınt				
D . POM Michael Cioffi	Force: At		in Brooklyn, Po	lice					
E . Officers	Force: At	t § 87(2)(b) heir guns at § 87(2)(b)	in Brooklyn, of	ficer	:s				
F . SGT Gary Leite	Abuse: A		in Brooklyn, Se	erge	ant				
G . SGT Gary Leite	Abuse: A		in Brooklyn, Se	erge	ant				

Officer(s)	Allegation	Investigator Recommendation
H . SGT Gary Leite	Abuse: At \$87(2)(b) in Brooklyn, Sergeant Gary Leite searched \$87(2)(b)	
I . POM Michael Cioffi	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Michael Cioffi searched § 87(2)(b)	
J . SGT Gary Leite	Abuse: At \$87(2)(b) in Brooklyn, Sergeant Gary Leite searched the vehicle in which \$87(2)(b) and were occupants.	
K . SGT Gary Leite	Abuse: At the 63rd Precinct stationhouse in Brooklyn, Sergeant Gary Leite searched the vehicle in which and \$87(2)(b) were occupants.	

Case Summary





ICAD information associated with the radio report and located the 911 caller's phone number. Police Officer Cioffi contacted the 911 caller. Sergeant Leite did not participate in the conversation. The 911 caller told Police Officer Cioffi that he was watching the incident from a nearby window. The 911 caller identified vehicle as the one containing the suspect. Both officers initially stated that they did not recall whether Police Officer Cioffi contacted the 911 caller before or after they had stopped the civilians and searched the vehicle. Later, Sergeant Leite stated that the call took place before the stop. Police Officer Cioffi, however, later stated that the call took place after he had already searched the vehicle. Police Officer Cioffi stated that the caller also provided

CCRB Case # 202005786

his name during this conversation, though he did not recall what it was. Sergeant Leite did not recall if the 911 caller identified himself.

Sergeant Leite and Police Officer Cioffi stated that they asked the civilians to exit the vehicle and then searched the vehicle in order to locate the alleged firearm. Police Officer Cioffi also cited this as the reason he frisked The officers searched the passenger's cabin of vehicle, which included the areas under all of the seats. They did not recall if the search included any closed compartments, such as the glove compartment. Both officers stated that Police Officer Cioffi located a spent 9mm shell casing from the back seat as well as several bottles of alcohol. Police Officer Cioffi stated that one of the bottles, which contained tequila, was open. Sergeant Leite did not recall if any of the bottles were open. Sergeant Leite also alleged that he found "fanta" leaves, a type of leaf used to wrap marijuana cigarettes. No marijuana was found.

The police radio recording associated with this incident is attached in IA #53 (Board Review #11). At the start of the recording, the dispatcher states that a report was made by an anonymous caller of a suspicious male with a firearm at the start of the recording, the dispatcher states that a report was made by an anonymous caller of a suspicious male with a firearm at the suspect as a black male with a beard and braided hair wearing a plaid shirt. The dispatcher did not know the color of the shirt. She further states that the suspect is with a group of males who were blocking the street. She did not describe any of the other males. She also reports that the caller was watching the suspect from a nearby window and wished to remain anonymous. An officer then asks the dispatcher to repeat the description. The dispatcher repeats back the same information without addition or alteration.

All of the civilian video footage obtained from this incident begins after \$87(2)(b) and \$87(2)(b) were removed from \$87(2)(b) vehicle. None of it appears to depict the officers' initial approach on the vehicle or the subsequent search (Board Review #05-07).

BWC footage from Sergeant Leite, Police Officer Cioffi and several other officers who responded to the incident is attached in IA #30 (Board Review #03). The footage shows that Sergeant Leite and Police Officer Cioffi approached vehicle immediately and removed the two occupants. At 1:20 into Police Officer Cioffi's BWC footage, he is shown asking could be exit the vehicle. When strong exits, Police Officer Cioffi frisks him by patting him around his lower torso, waist and legs. At 1:50 into his recording, Police Officer Cioffi and Sergeant Leite start searching the interior of the vehicle. An open bottle is seen on the floor by the front passenger's seat. Several other bottles are seen during the search, but they appear to be sealed. At 4:30 into the recording, Police Officer Cioffi makes a phone call to an unspecified party. He asks, "Yeah, sir? Can you hear me? Okay. Goodbye." The other person's words are not heard. At 5:30 into the recording, Police Officer Cioffi lifts up the rear seat. He then remarks that there is a spent round under the seat. A small metallic cylinder is visible under the seat. At 6:30 into the recording, Police Officer Cioffi makes another call to an unspecified party and asks for their first name. It is unclear what, if anything, the other party says in reply.

Police Officer Cioffi was shown his BWC footage during his CCRB interview. He identified the person he spoke to on the two phone calls depicted therein as the 911 caller. He stated that during the first call, the 911 caller told him that he had stopped the right people. During the second call, the 911 caller provided Police Officer Cioffi with his first name. Police Officer Cioffi did not recall what the 911 caller's name was.

Both the civilian and BWC footage from this incident shows that \$87(2)(b) and \$87(2)(b) are both black males with short hair. Neither has any facial hair. \$87(2)(b) wore a black T-shirt with blue lines on the front, while \$87(2)(b) wore a white shirt with a palm tree pattern on it. The

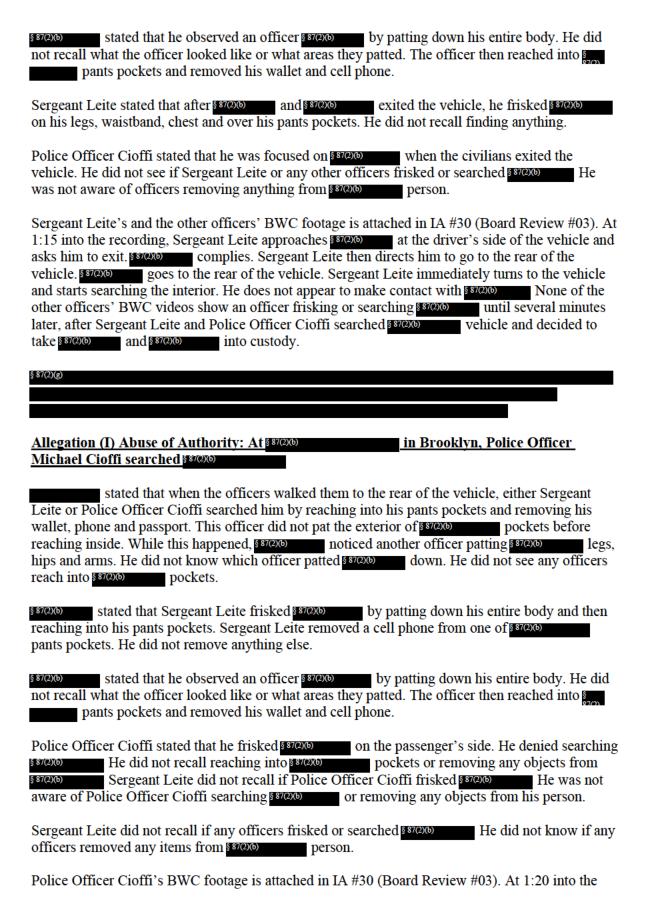
various videos also show that vehicle was the only civilian vehicle double-parked at
Based on the order of events shown in Police Officer Cioffi's BWC footage, the investigation determined that Police Officer Cioffi did not contact the 911 caller until after the stop, frisk, and the vehicle search.
Due to the lack of corroboration from Police Officer Cioffi or the civilians, the investigation did not credit Sergeant Leite's claim that he detected an odor of marijuana emanating from vehicle.
Information provided to the police by an anonymous 911 caller can provide probable cause when the 911 caller is believed to be reliable and has a sufficient basis of knowledge for the information provided to the police. An anonymous 911 caller who is observing an incident as it unfolds is considered to be a reliable witness and to possess a sufficient basis of knowledge for these purposes. Officers may conduct a warrantless search of a vehicle and its occupants when they possess probable cause based on such an anonymous report. People v. Warren, 124 A.D. 2d 699 (App. Term, 2 nd Dept., 2015) (Board Review #12).
§ 87(2)(g)
The police radio recording identified the suspect as a black male with braided hair, a beard, and a plaid shirt. Both and a plaid shirt. Both and a plaid shirt. Neither, therefore, can be considered a strong match for the description. While and and and and are black males, but neither has braided hair or a beard, and neither was wearing a plaid shirt. Neither, therefore, can be considered a strong match for the description. While and are black males, but neither has braided hair or a beard, and neither was wearing a plaid shirt. Neither, therefore, can be considered a strong match for the description. While are black males, but neither has braided hair or a beard, and neither was wearing a plaid shirt. Neither, therefore, can be considered a strong match for the description. While are black males, but neither has braided hair or a beard, and neither was wearing a plaid shirt. Neither, therefore, can be considered a strong match for the description. While are black males, but neither has braided hair or a beard, and neither was wearing a plaid shirt. Neither, therefore, can be considered a strong match for the description. While are black males, but neither has braided hair or a beard, and neither was wearing a plaid shirt. Neither, therefore, can be considered a strong match for the description.
While the BWC footage does not capture what the 911 caller said to Police Officer Cioffi over the phone, the order of events shows that any information he provided was received after the stop, the frisk and the vehicle search had already taken place.
Police Officer Cioffi's calls also demonstrate that the officers had access to the 911 caller's information from the start. The officers did not, however, use this information to verify the suspect's identity with the 911 caller before acting.
§ 87(2)(g)
Allegation (C) Force: At \$87(2)(0) in Brooklyn, Sergeant Gary Leite pointed his
<u>gun at \$37000</u> Allegation (D) Force: At \$37000 in Brooklyn, Police Officer Michael Cioffi
pointed his gun at same in Brooklyn, officers pointed their guns at
§ 87(2)(b)

It is undisputed that Sergeant Leite and Police Officer Cioffi approached vehicle. Several other officers from the 63rd Precinct were with them at the time, but Sergeant Leite and Police Officer Cioffi were the only ones who approached the vehicle while the civilians were

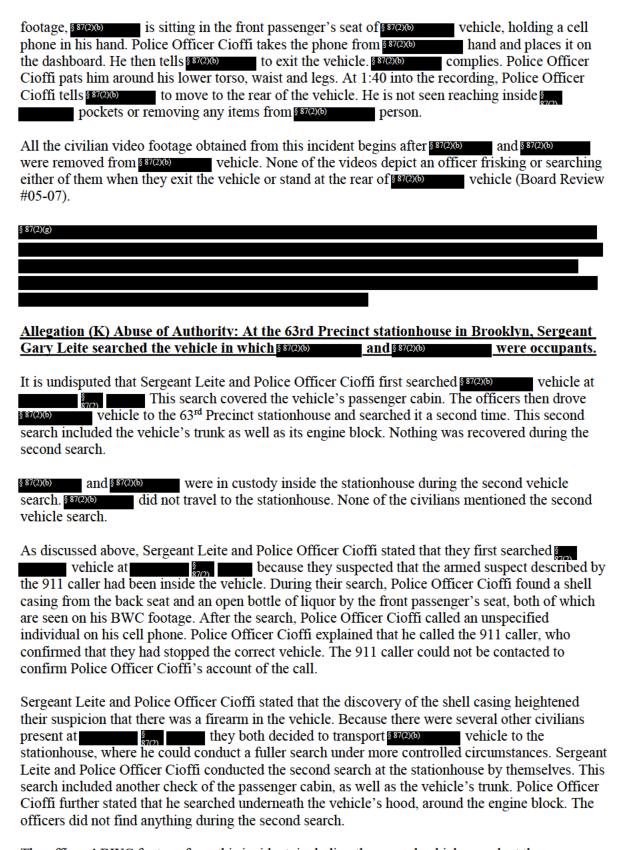
inside.

stated that Sergeant Leite and Police Officer Cioffi both had their guns drawn and pointed at his vehicle as they approached. He did not mention any other officers drawing or pointing firearms. stated that several officers of the officers who were present at the start of the incident drew and pointed their weapons at start of the incident drew and pointed their weapons at start of the officers. He denied that Police Officer Cioffi, who told him to exit the vehicle drew his gun. stated that all of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed their guns at start of the officers who were present during the incident pointed the officers who were present during the officers who were present during the officers who were present durin
Sergeant Leite and Police Officer Cioffi both denied drawing or pointing their firearms during the incident. They denied seeing any other officers do so.
All of the civilian video footage obtained from this incident begins after (\$87(2)(6)) and (\$87(2)(6)) were removed from (\$87(2)(6)) wehicle. None of it depicts the officers' initial approach on the vehicle. None of the officers are seen holding firearms in the civilian videos (Board Review #05-07).
BWC footage from Sergeant Leite and Police Officer Cioffi, as well as from eight other officers who responded to this incident, is attached in IA #30 (Board Review #03). None of these videos depict an officer holding a firearm at any point. Most of the officers' footage depicts them exiting their respective vehicles and approaching ***(2)(6)** These officers, including Sergeant Leite and approach ***(2)(6)** Of the officers who did record the incident, Police Officer Dean Perez was the only officer whose video did not record his initial approach on the civilians' vehicles. His first video begins after ***(2)(6)** and ***(2)(6)** were removed from ***(3)(7)(6)** vehicle.
The investigation determined that none of the officers drew or pointed firearms at any civilians during this incident. The officers' BWC footage show that they were carrying innocuous objects such as flashlights and radios when they approached structure vehicle. None were seen carrying weapons at any point. Structure structu
Allegation (F) Abuse of Authority: At \$87(2)(b) in Brooklyn, Sergeant Gary Leite
frisked \$87(2)(b) Allegation (H) Abuse of Authority: At \$87(2)(b) in Brooklyn, Sergeant Gary Leite searched \$87(2)(b)
It is undisputed that Sergeant Leite and Police Officer Cioffi ordered \$87(2)(b) and \$87(2)(b) exit the vehicle.
stated that once he and \$\frac{\sigma(2)(b)}{\sigma(2)(b)}\$ exited the vehicles, officers walked them to the rear of the vehicle. There, Sergeant Leite frisked him by patting down the entirety of his body. He then reached into \$\frac{\sigma(2)(b)}{\sigma(2)(b)}\$ front pants pockets. Sergeant Leite did not remove anything from the pockets. Sergeant Leite did not conduct any further examination of \$\frac{\sigma(2)(b)}{\sigma(2)(b)}\$ person.
stated that when he exited the vehicle, he noticed another officer patting \$87(2)(b) legs, hips and arms. He did not know which officer patted \$87(2)(b) down. He did not see any officers reach into \$87(2)(b) pockets.

CCRB CTS – Confidential Page 5



CCRB Case # 202005786



The officers' BWC footage from this incident, including the second vehicle search at the stationhouse, is attached in IA #30 (Board Review #03). The footage shows that Sergeant Leite and

Police Officer Cioffi conducted the second search with assistance from Police Officer Daniel Diaz and Police Officer John Brennan, also of the 63rd Precinct. The search includes the vehicle's interior, the trunk and the engine block.

Information provided to the police by an anonymous 911 caller can provide probable cause when the 911 caller is believed to be reliable and has a sufficient basis of knowledge for the information provided to the police. An anonymous 911 caller who is observing an incident as it unfolds is considered to be a reliable witness and to possess a sufficient basis of knowledge for these purposes. Officers may conduct a warrantless search of a vehicle and its occupants when they possess probable cause based on such an anonymous report. People v. Warren, 124 A.D. 2d 699 (App. Term, 2nd Dept., 2015) (Board Review #12).

§ 87(2)(g)	
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§ 87(2)(g)	

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which \$87(2)(b) or \$87(2)(b) has been a party (Board Review #13).
- Sergeant Leite has been a member of the service for twelve years and has been listed as a subject officer in ten CCRB complaints and twenty-three allegations, two of which were substantiated.
 - 201212775 involved a substantiated allegation of discourtesy (word). The Board recommended that he received a command discipline. The NYPD imposed command discipline A.
 - 201603474 involved a substantiated allegation of stop. The Board recommended that he received formalized training. The NYPD imposed formalized training.
 - O §87(2)(g)
- Police Officer Cioffi has been a member of the service for four years and has been listed as a subject officer in three other CCRB complaints and thirteen allegations, none of which have been substantiated.

Mediation, Civil and Criminal Histories

regard	November 24, 2020, n	-	filed a Notice of Claim er.
Squad No.:	_15		
Investigator:	Owen Godshall Signature	Inv. Owen Godshall Print Title & Name	8/31/2021 Date
Squad Leader:	Signature	IM Simon Wang Print Title & Name	10/07/21 Date
Reviewer:	Signature	Print Title & Name	Date